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TO

Amend the Land Law (Ireland) Act, 1881, in relation to
Turbary.

A.D. 1888.

WHEREAS the rights of turbary heretofore granted to or exercised by occupiers of land in Ireland are in many cases undefined, and customs, licenses, usages, and conditions relating thereto are difficult of proof :

5 And whereas the application of the Land Law (Ireland) Act, 1881, in matters relating to rights of turbary, has thereby become inequitable, expensive, and uncertain, and it is expedient that a general settlement of questions of turbary should now be made :

10 Be it therefore enacted by the Queen's most Excellent Majesty, hy and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Turbary (Ireland) Act, 1888. Short title.

15 2. From and after the passing of this Act it shall be sufficient for any occupier of land in Ireland claiming any common of turbary, or any right of turbary as appurtenant to such land, or as annexed or belonging thereto, or used or enjoyed therewith, or as included in the right of tenancy of such occupier in any manner whatsoever, to
20 prove to the satisfaction of the court or judge that the occupiers of such land have, in the course of the customary management of the estate of which such land forms part, enjoyed either for a period of ten years last before the commencement of the action or for ten years ending in the year *one thousand eight hundred and eighty-one*,
25 the right claimed, or any like right, custom, license, or usage of turbary, on any part or parts of the same estate; and the court or judge may thereupon either give judgment for the plaintiff, with costs, or make such other order as in all the circumstances of the case may seem just.

Proof of
right of
turbary.

[Bill 39.]

A.D. 1888.

Right of
turbary in
cases of
application
for "judicial
rent."
44 & 45 Vict.
c. 49.

3. On the hearing of any application for the determination of a judicial rent, under the provisions of the Land Law (Ireland) Act, 1881, or of any Act amending the same, in respect of any holding, the court shall in every case inquire as to the rights, customs, licenses, or usages of turbary which have been enjoyed in the 5 course of the customary management of the estate by the occupier of the holding, and if it shall appear to them that the occupier would have had a reasonable expectation of continuing in the enjoyment of any turbary if he had not applied to the court, then the court shall make an order granting to him a right of common 10 of turbary to such extent and under such conditions as to the court may seem just, and such right shall thereafter be deemed to be for all purposes appurtenant to the said holding.

Deduction
from judicial
rent in
certain cases.

4. The court shall have power to take any such rights of turbary granted by it under the last preceding section into account in the 15 determination of the judicial rent; but if it shall appear to the court that there is not on or connected with the estate a sufficient amount of turf or hog to allow of the full exercise of all rights of turbary for the full period of fifteen years at least, the then court shall deduct from the judicial rent a proportionate sum as the rent 20 due in respect of turbary, which shall be called hog rent, and the said hog rent shall be payable for so many years only as the court may direct: Provided always, that the tenant shall in that case be entitled to the rights of turbary granted by the court only so long as the said hog rent continues to be payable. 25

Application
for right of
turbary after
judicial rent
has been
determined.

5. If the tenant of any holding as to which a judicial rent has, before the passing of this Act, been determined under the provisions of the Land Law (Ireland) Act, 1881, in addition to the powers provided for in section seventeen of the said Act, the tenant may at any time apply to the court in the manner for the time being pre- 30 scribed to declare the right of turbary, if any, belonging to his holding; and if on the hearing of such application it be proved to the satisfaction of the court that the tenant has in connexion with or after his application to fix a judicial rent been refused the enjoyment of any turbary as to which he had such a reasonable 35 expectation of continuance as is in section three herein-before described, then the court may make an order granting to him a right of common of turbary as in the same section provided, in the same manner as if proceedings for the determination of a judicial rent were still pending. 40

Addition to
judicial rent
in certain
cases.

6. Where in the case of any order made under the last preceding section it shall appear to the court that the actual or probable

refusal of turbary was brought expressly to the notice of the court at the time of fixing a judicial rent for the holding, and that the judicial rent was in fact fixed upon the basis of such refusal, then the court may, if under all the circumstances it appears just, add to the judicial rent a proportionate sum by way of hog rent, which shall thereafter be deemed to be for all purposes part of the judicial rent so determined as aforesaid.

A.D. 1888.

7. The powers and provisions of section fifty of the Land Law (Ireland) Act, 1881, shall extend to all proceedings under this Act.

44 & 45 Vict.
c. 49, s. 50.
to extend to
this Act.
Definition.

8. In the construction of this Act the words "court," "holding," "tenant," and all other words and expressions, shall have the meaning assigned to them in the Land Law (Ireland) Act, 1881, except where the context is repugnant thereto; and this Act shall so far as possible be read with and taken to be part of the said Land Law (Ireland) Act, 1881, for all purposes whatsoever.

9. This Act shall not apply to England or Scotland.

Extent of
Act.

Turkary (Ireland).

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B I L L

To amend the Land Law (Ireland) Act,
1881, in relation to Turkey.

(Prepared and brought in by
Mr. Law, Mr. T. P. Stowell, and Mr. Stanger.)

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